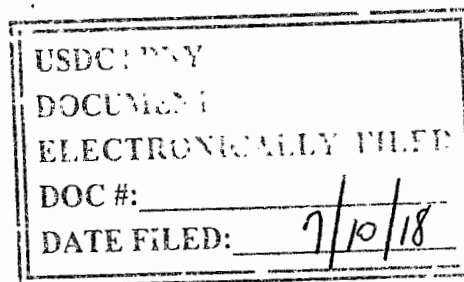


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



UNITED STATES OF AMERICA,

-against-

16 Cr. 370 (CM)

MATTHEW CONNOLLY AND
GAVIN CAMPBELL BLACK,

Defendants.

ORDER

McMahon, CJ:

The defendants' motion to take the deposition of John Ewan is GRANTED, subject to the following three conditions:

1. The letter rogatory shall be in the form attach to the Government's response to the motion as Exhibit A, except that the court does not agree to the Government's proposed alteration of the list of questions to be asked of Mr. Ewan that is found on page 11 of the letter rogatory; and
2. There will be no delay in the trial of this action. The jury will be selected on September 17, 2018, whether this deposition has been concluded or not. I agree with the Government that the defense has waited until the eleventh hour and fifty ninth minute to make this request. It has known this court's views on the issues that are the subject of the inquiry for many months. This request could have been made far earlier than it was. This trial has been postponed three times. It will not be postponed a fourth time for any reason. Any detrimental impact from the belated nature of this request is on the heads of defense counsel.
3. That said, I am ordering the Government to do everything in its power to facilitate the taking of Mr. Ewan's deposition in the next two months. One reason that the defense has delayed making this request is the Government's shift in position (and I am sorry if the Government disagrees with that characterization, but it is a very fair characterization). The case the Government now proposes to try differs from the case everyone – myself included – thought we were going to try. This is not to excuse the defendants' delay in making this motion, but it is the principal reason why I expect the Government to make this deposition happen.

Please make sure there is a finalized letter rogatory for my signature in Mr. O'Neill's in box before 3 PM today.

Dated: July 10, 2018

A handwritten signature in cursive script, appearing to read "Peter J. Hall", written in black ink.

Chief Judge

BY ECF TO ALL COUNSEL